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These comments are submitted on the behalf of the grievance administrator concerning the proposed change to MRPC 7.3, which would require a lawyer who seeks professional employment from a prospective client to designate the writing as an advertisement by placing the words "Advertising Materials" on the outside envelope of written communications and at the beginning and end of every written, recorded, or electronic communication.

The proposed change is supported by the grievance administrator as one promoting transparency by the legal profession to the public. Those desiring legal representation will open the marked envelopes and read their contents, particularly if currently unrepresented. Not placing "Advertising Materials" envelopes or other communications smacks of dissimulation.

Under the current advertising scheme, lawyers regularly scour court records, or make FOIA requests to discern who may need legal services and send direct mail advertisements to those in need of legal services. This is appropriate and serves the public interest by providing information to the public. It is not unheard of, however, for a potential client to receive so many lawyer advertisements that it changes from the informational to the burdensome. The proposed change to MRPC 7.3 will simply allow the potential client to choose what he or she will read.

Upon occasion, too, complaints have been made by individuals who have been upset by receipt of direct mail solicitation. Individuals have learned from lawyer advertisements that they have been sued for divorce. Individuals who have lost family members through such events as accidents have received advertisements immediately after the tragedy. While some states have a "cooling off" period following accidents before direct mail solicitations can occur, Michigan does not. Placing the words "Advertising Material," on advertising material is a reasonable and moderate step in providing a buffer.

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